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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 001346

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SUBJECT: UK-GOI NEGOTIATIONS FOR UK MILITARY PRESENCE IN
IRAQ AT AN IMPASSE

Classified By: Ambassador Christopher Hill for reasons 1.4 (d).

11. (C) SUMMARY. UK-GOI negotiations for a Memorandum of Understanding (MOU) regarding UK military presence in Iraq have stalled. The deadline to execute an agreement is May 31. UK Ambassador Prentice indicated to the Ambassador that Prime Minister (PM) Maliki is unwilling to support an agreement even though he agreed with PM Brown to execute an agreement by the end of the month. PM's advisors countered that argument and asserted that the UK does not take into account that Maliki is under serious political constraints, especially in an election year. They added that the negotiations on jurisdiction could be used as fodder by his political opponents to get rid of Maliki. UK's outreach to Council of Representatives (CoR) political blocs indicated that the CoR is willing to approve an agreement. Maliki has insisted on a guarantee in writing from his political opponents (IIP, ISCI, Kurds) prior to endorsing any agreement. No Iraqi political leaders have indicated to Maliki, however, that they would support the text. Maliki sent a letter to House Speaker Ayad Sammaraie requesting such assurances, and Sammaraie has apparently refused to respond saying, the agreement will be treated like any other law. Prentice is engaging the Presidency Council and has requested that the US bring pressure to bear on this matter. END SUMMARY.

BACKGROUND

12. (C) The MOU under which UK military is present in Iraq Requires the completion of operations by May 31. Under this agreement, UK forces would then have two months to withdraw from Iraq. The main items of contention are (1) GOI insistence that it have jurisdiction over UK military in country and under some circumstances (2) Iraqi support for continued UK participation in training missions only. Currently, there are approximately 400 British military members on the ground in Iraq, of whom roughly 200 are involved in training. The others fill embedded staff positions throughout the Multi-National Force-Iraq (MNF-I) structure; key areas of UK influence are the Force Strategic Engagement Cell (FSEC) (where the UK fills half of all the posts), responsible for outreach to and reconciliation efforts with insurgent groups and the GOI, and Task Force Troy, which is at the forefront of counter-IED work. In addition, the UK provides naval security for Iraqi oil platforms in the Gulf. This comprises five ships in rotation with one ship and 600 personnel operating in the Gulf at any one time.

13. (C) On May 20, UK Ambassador Prentice indicated to the Ambassador that PM Maliki was not willing to push for an MOU or an exchange of letters fearing the same political backlash from his opponents that happened during the US-Iraq Security Agreement (SA) negotiations. Prentice reported that in London, PMs Brown and Maliki agreed to get this agreement expedited by May 31. The UK has blanketed all the key CoR leaders who agreed to approve an MOU but have to wait the Council of Ministers (COM) to endorse and send it to the CoR.

Although PM's Senior Political Advisor Sadiq Rikabi Q Although PM's Senior Political Advisor Sadiq Rikabi intimated to EmbOffs that without an agreement a serious gap in naval security could arise, he was firm that Maliki would not budge without guarantees from the political blocs. The Prime Minister is recalling the experience with the US-Iraq SA, in which other political leaders pledged support, only to lift support upon submission to the CoR and tie the SA to what Maliki viewed (with some justification) as an anti-Maliki political reform document.

HOLD-UP IN THE COM

14. (C) The UK negotiated the text of a new exchange of letters with PM Legal Advisor Dr. Fadhel - the avenue the latter preferred - and submitted it to the COM in early May, but the COM rejected an exchange of letters as insufficient legal basis for continued military presence and ruled that a new agreement would have to be approved by the CoR. In response, the UK presented a draft law to the COM, which

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formed a committee to review the draft. The committee returned a revised draft entirely unacceptable to London, as it provides lesser jurisdictional protections to those under which UK forces currently operate. The COM as of May 17 refused to entertain further changes to the draft agreement, which the UK perceives as coming from the PM.

15. (C) Prentice said that the UK is flexible to have an agreement in any legal form. He noted that the UK's proposed text is largely a repeat of the MOU currently in effect, approved in December, but with reduced tasks. Dr. Fadhel suggested that there be a COM resolution of which the CoR will also issue a resolution endorsing the COM resolution. However, the GOI has yet to offer the UK a clear alternative to the COM's unacceptable draft, including an Iraqi official authorized to negotiate new text with the UK which upon completion the UK can expect the GOI to endorse.

A QUESTION OF JURISDICTION

16. (C) Prentice reiterated that the issue of jurisdiction still needs to be worked out. The UK cannot accept any further dilution of the existing jurisdictional immunities stated in the December 2008 MOU. On May 21, GBR's LTG Christopher Brown stated that the UK has never sought levels of Jurisdictional protections equivalent to those in the US-Iraq SA during the negotiation of this future agreement, "All we've asked for is the same level of jurisdiction the GOI gave UK last December." Brown stated that the level of protection the UK accepted last December was already lower than the US would accept; the GOI are now counter-offering even lower levels. He commented that NATO nations have rejected this jurisdiction level. He added that the CoR had already approved the December provisions, which themselves provide lesser protections than US terms. The PM and his advisors counter that the CoR was a much different CoR in December 2008. The new Sammaraie-led CoR is actively building a case for Maliki's ouster. The UK is not convinced that Maliki faces such political problems.

TIMING

17. (C). Prentice stated that if by May 25 (the date of the next COM meeting) there is no movement on this issue, per orders from London, the UK must begin withdrawal of remaining troops. Prentice indicated that there is a back-up plan to automatically remove the ship's crew from negotiation and only advocate for the remaining 400 troops on land. However, he is still concerned about the deadline. UK officials are engaging the Presidency Council and other GOI leaders to seek a shift in the COM's position or an avenue for acceptable new text by May 25, and have asked the US to bring pressure to bear on this matter.

US ROLE

18. (C) Ambassador Hill and Embassy officials have been working key interlocutors, particularly within the Prime Minister's office. It is our view that absent (1) some further flexibility on the UK's part on jurisdiction and/or (2) written assurance from key party bloc leaders, including Speaker Sammaraie, that the agreement will not be tied to QSpeaker Sammaraie, that the agreement will not be tied to other political issues, the UK and GOI are at an impasse. There is a deep historic and cultural backdrop to these negotiations (particularly on the issue of jurisdiction) and a weakened Prime Minister facing an election campaign will not move forward alone, nor is there any assurance, were he to do so, that the agreement would pass the CoR.
HILL